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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,087	01/29/2002	Haruko Toyoshima	0445-0315P	2505

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/058,087

Applicant(s)

TOYOSHIMA, HARUKO

Examiner

Karin M. Reichle

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-4.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 12.
10. ☒ Other: See Continuation Sheet

K.M. Reichle
Karin M. Reichle
Primary Examiner
Art Unit: 3761

Continuation of 3. Applicant's reply has overcome the following rejection(s): the matters of form set forth in paragraphs 1, 3 and 4 of the FINAL.

Continuation of 10. Other: It is noted that the Taiwanese notice of rejection was not considered since a translation thereof was not provided. Applicant's remarks on pages 6-9 directed to matters of form are deemed moot. Applicants provisional request for an interview has been noted. Applicants should contact the Examiner by phone to discuss the request. Note a PTO-413A would be required prior to such an interview. In response to Applicant's reiteration of the remarks filed 9-8-03 Applicant's attention is redirected to paragraph 7 of the FINAL. With regard to Applicant's remarks on pages 10 et seq, such remarks have been considered but are deemed narrower than the teachings of the prior art. For example: 1) It is noted that the '584 incorporates all of the '274 disclosure, see col. 14, lines 47-52 of '584. 2) '584 at col. 14, lines 38-52, teaches a rear or second waist region having an elastic waist feature constructed as taught by '274 and '274 at col. 12, lines 24-27 teaches waist feature 34 can be in both end portions and at col. 12, lines 52-53 and 62-63 teaches such elastic waist features include elastic waistband 35. 3) 274' at col. 45, line 45-col. 46, line 31 teaches that the extension forces of the waist band can be greater than, equal to or lesser than those of the side panel and the side panel may have extensibility that varies longitudinally from the end edge to the leg edge, i.e the portion of the side panel which is adjacent the waist edge can have an extension stress same as, lesser than or greater than the waist band and greater than or less than the remainder of that side panel between that portion and the leg edge, i.e. the remainder of the side panel or under waist portion is taught as having a greater extension stress than the waist opening portion.